

112TH CONGRESS
1ST SESSION

S. 890

To establish the supplemental fraud fighting account, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2011

Mr. LEAHY (for himself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To establish the supplemental fraud fighting account, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Fraud to Pro-
5 tect Taxpayers Act of 2011”.

6 **SEC. 2. DEPARTMENT OF JUSTICE WORKING CAPITAL**
7 **FUND REFORMS.**

8 Section 11013(a) of the 21st Century Department of
9 Justice Appropriations Authorization Act (28 U.S.C. 527
10 note) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘covered amounts’ means—

“(i) the unobligated balances in the debt collection management account; and

“(ii) the unobligated balances in the supplemental fraud fighting account;

“(B) the term ‘debt collection management account’ means the account established in the Department of Justice Working Capital Fund under paragraph (2);

“(C) the term ‘fraud offense’ includes—

“(i) an offense under section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1) and an offense under section 104 or 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2 and 78dd–3);

“(ii) a securities fraud offense, as defined in section 3301 of title 18, United States Code;

“(iii) a fraud offense relating to a financial institution or a federally related mortgage loan, as defined in section 3 of

1 the Real Estate Settlement Procedures Act
2 of 1974 (12 U.S.C. 2602), including an of-
3 fense under section 152, 157, 1004, 1005,
4 1006, 1007, 1011, or 1014 of title 18,
5 United States Code;

6 “(iv) an offense involving procurement
7 fraud, including defective pricing, bid rig-
8 ging, product substitution, misuse of clas-
9 sified or procurement sensitive informa-
10 tion, grant fraud, fraud associated with
11 labor mischarging, and fraud involving for-
12 eign military sales;

13 “(v) an offense under the Internal
14 Revenue Code of 1986 involving fraud;

15 “(vi) an action under subchapter III
16 of chapter 37 of title 31, United States
17 Code (commonly known as the ‘False
18 Claims Act’), and an offense under chapter
19 15 of title 18, United States Code;

20 “(vii) an offense under section 1029,
21 1030, or 1031 of title 18, United States
22 Code; and

23 “(viii) an offense under chapter 63 of
24 title 18, United States Code; and

1 “(D) the term ‘supplemental fraud fighting
2 account’ means the supplemental fraud fighting
3 account established in the Department of Jus-
4 tice Working Capital Fund under paragraph
5 (3)(A).

6 “(2) DEBT COLLECTION MANAGEMENT AC-
7 COUNT.—Notwithstanding”;

8 (2) by striking “Such amounts” and inserting
9 “Subject to paragraph (4), such amounts”; and

10 (3) by adding at the end the following:

11 “(3) SUPPLEMENTAL FRAUD FIGHTING AC-
12 COUNT.—

13 “(A) ESTABLISHMENT.—There is estab-
14 lished as a separate account in the Department
15 of Justice Working Capital Fund established
16 under section 527 of title 28, United States
17 Code, a supplemental fraud fighting account.

18 “(B) CREDITING OF AMOUNTS.—Notwith-
19 standing section 3302 of title 31, United States
20 Code, or any other statute affecting the cred-
21 iting of collections, the Attorney General may
22 credit, as an offsetting collection, to the supple-
23 mental fraud fighting account up to 0.5 percent
24 of all amounts collected pursuant to civil debt

1 collection litigation activities of the Department
2 of Justice.

3 “(C) USE OF FUNDS.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), the Attorney General may use
6 amounts in the supplemental fraud fight-
7 ing account for the cost (including equip-
8 ment, salaries and benefits, travel and
9 training, and interagency task force oper-
10 ations) of the investigation of and conduct
11 of criminal, civil, or administrative pro-
12 ceedings relating to fraud offenses.

13 “(ii) LIMITATION.—The Attorney
14 General may not use amounts in the sup-
15 plemental fraud fighting account for the
16 cost of the investigation of or the conduct
17 of criminal, civil, or administrative pro-
18 ceedings relating to—

19 “(I) an offense under section
20 30A of the Securities Exchange Act of
21 1934 (15 U.S.C. 78dd–1); or

22 “(II) an offense under section
23 104 or 104A of the Foreign Corrupt
24 Practices Act of 1977 (15 U.S.C.
25 78dd–2 and 78dd–3).

1 “(D) CONDITIONS.—Subject to paragraph
2 (4), amounts in the supplemental fraud fighting
3 account shall remain available until expended
4 and shall be subject to the terms and conditions
5 of the Department of Justice Working Capital
6 Fund.

7 “(4) MAXIMUM AMOUNT.—

8 “(A) IN GENERAL.—There are rescinded
9 all covered amounts in excess of \$175,000,000
10 at the end of fiscal year 2012 and the end of
11 each fiscal year thereafter.

12 “(B) RATIO.—For any rescission under
13 subparagraph (A), the Secretary of the Treas-
14 ury shall rescind amounts from the debt collec-
15 tion management account and the supplemental
16 fraud fighting account in a ratio of 6 dollars to
17 1 dollar, respectively.

18 “(5) ANNUAL REPORT.—Not later than 6
19 months after the date of enactment of the Taxpayer
20 Protection and Fraud Enforcement Act of 2011, and
21 every year thereafter, the Attorney General shall
22 submit to Congress a report that identifies, for the
23 most recent fiscal year before the date of the re-
24 port—

1 “(A) the amount credited to the debt col-
2 lection management account and the amount
3 credited to the supplemental fraud fighting ac-
4 count from civil debt collection litigation, which
5 shall include, for each account—

6 “(i) a comprehensive description of
7 the source of the amount credited; and

8 “(ii) a list the civil actions and settle-
9 ments from which amounts were collected
10 and credited to the account;

11 “(B) the amount expended from the debt
12 collection management account for civil debt
13 collection, which shall include a comprehensive
14 description of the use of amounts in the ac-
15 count that identifies the amount expended for—

16 “(i) paying the costs of processing
17 and tracking civil and criminal debt-collec-
18 tion litigation;

19 “(ii) financial systems;

20 “(iii) debt-collection-related personnel
21 expenses;

22 “(iv) debt-collection-related adminis-
23 trative expenses; and

24 “(v) debt-collection-related litigation
25 expenses;

1 “(C) the amounts expended from the sup-
 2 plemental fraud fighting account and the jus-
 3 tification for the expenditure of such amounts;
 4 and

5 “(D) the unobligated balance in the debt
 6 collection management account and the unobli-
 7 gated balance in the supplemental fraud fight-
 8 ing account at the end of the fiscal year.”.

9 **SEC. 3. REIMBURSEMENT OF COSTS AWARDED IN FALSE**
 10 **CLAIMS ACT PROSECUTIONS.**

11 Section 3729(a)(3) of title 31, United States Code,
 12 is amended by adding at the end the following: “Any costs
 13 paid under this paragraph shall be credited to the appro-
 14 priations accounts of the executive agency from which the
 15 funds used for the costs of the civil action were paid.”.

16 **SEC. 4. INTERLOCUTORY APPEALS OF SUPPRESSION OR**
 17 **EXCLUSION OF EVIDENCE.**

18 Section 3731 of title 18, United States Code, is
 19 amended in the second undesignated paragraph by insert-
 20 ing “Attorney General, the Deputy Attorney General, an
 21 Assistant Attorney General, or the” after “an indictment
 22 or information, if the”.

1 **SEC. 5. EXTENSION OF INTERNATIONAL MONEY LAUN-**
 2 **DERING STATUTE TO TAX EVASION CRIMES.**

3 Section 1956(a)(2)(A) of title 18, United States
 4 Code, is amended—

5 (1) by striking “intent to promote—” and in-
 6 serting the following: “intent to—

7 “(i) promote”; and

8 (2) by adding at the end the following:

9 “(ii) engage in conduct constituting a vio-
 10 lation of section 7201 or 7206 of the Internal
 11 Revenue Code of 1986; or”.

12 **SEC. 6. STRENGTHENING THE PROHIBITION AGAINST**
 13 **TRAFFICKING IN PASSWORDS.**

14 Section 1030(a)(6) of title 18, United States Code,
 15 is amended—

16 (1) in the matter preceding subparagraph (A),
 17 by inserting “protected” before “computer”; and

18 (2) by striking “, if—” and all that follows and
 19 inserting “; or”.

20 **SEC. 7. CLARIFYING VENUE FOR FEDERAL MAIL FRAUD OF-**
 21 **FENSES.**

22 (a) IN GENERAL.—Section 3237(a) of title 18,
 23 United States Code, is amended in the second undesig-
 24 nated paragraph by adding before the period at the end
 25 the following: “or in any district in which an act in fur-
 26 therance of the offense is committed”.

1 (b) SECTION HEADING.—Section 3237 of title 18,
 2 United States Code, is amended in the section heading by
 3 striking “**begun**” and all that follows and inserting
 4 “**taking place in more than one district**”.

5 (c) TABLE OF SECTIONS.—The table of sections for
 6 chapter 211 of title 18, United States Code, is amended
 7 by striking the item relating to section 3237 and inserting
 8 the following:

“3237. Offenses taking place in more than one district.”.

9 **SEC. 8. EXPANSION OF AUTHORITY OF SECRET SERVICE.**

10 Section 3056 of title 18, United States Code, is
 11 amended—

12 (1) in subsection (b)—

13 (A) in paragraph (1)—

14 (i) by inserting “641, 656, 657,” after
 15 “510,”; and

16 (ii) by striking “493, 657,” and in-
 17 serting “493,”; and

18 (B) in paragraph (3), by striking “feder-
 19 ally insured”; and

20 (2) by adding at the end the following:

21 “(h)(1) For any undercover investigative operation of
 22 the United States Secret Service that is necessary for the
 23 detection and prosecution of a crime against the United
 24 States, the United States Secret Service may—

1 “(A) use amounts appropriated for the United
2 States Secret Service, including unobligated balances
3 available from prior fiscal years, to—

4 “(i) purchase property, buildings, and
5 other facilities and lease space within the
6 United States (including the District of Colum-
7 bia and the territories and possessions of the
8 United States), without regard to sections 1341
9 and 3324 of title 31, section 8141 of title 40,
10 and sections 3901, 4501 through 4506, 6301,
11 and 6306(a) of title 41; and

12 “(ii) establish, acquire, and operate on a
13 commercial basis proprietary corporations and
14 business entities as part of the undercover in-
15 vestigative operation, without regard to sections
16 9102 and 9103 of title 31;

17 “(B) deposit in banks and other financial insti-
18 tutions amounts appropriated for the United States
19 Secret Service, including unobligated balances avail-
20 able from prior fiscal years, and the proceeds from
21 the undercover investigative operation, without re-
22 gard to section 648 of this title and section 3302 of
23 title 31; and

24 “(C) use the proceeds from the undercover in-
25 vestigative operation to offset necessary and reason-

1 able expenses incurred in the undercover investiga-
2 tive operation, without regard to section 3302 of
3 title 31.

4 “(2) The authority under paragraph (1) may be exer-
5 cised only upon a written determination by the Director
6 of the United States Secret Service (in this subsection re-
7 ferred to as the ‘Director’) that the action being author-
8 ized under paragraph (1) is necessary for the conduct of
9 an undercover investigative operation. A determination
10 under this paragraph may continue in effect for the dura-
11 tion of an undercover investigative operation, without fis-
12 cal year limitation.

13 “(3) If the Director authorizes the proceeds from an
14 undercover investigative operation to be used as described
15 in subparagraph (B) or (C) of paragraph (1), as soon as
16 practicable after the proceeds are no longer necessary for
17 the conduct of the undercover investigative operation, the
18 proceeds remaining shall be deposited in the general fund
19 of the Treasury as miscellaneous receipts.

20 “(4) As early as the Director determines practicable
21 before the date on which a corporation or business entity
22 established or acquired under paragraph (1)(A)(ii) with a
23 net value of more than \$50,000 is to be liquidated, sold,
24 or otherwise disposed of, the Director shall notify the Sec-
25 retary of Homeland Security regarding the circumstances

1 of the corporation or business entity and the liquidation,
2 sale, or other disposition. The proceeds of the liquidation,
3 sale, or other disposition, after obligations are met, shall
4 be deposited in the general fund of the Treasury as mis-
5 cellaneous receipts.

6 “(5)(A) The Director shall—

7 “(i) on a quarterly basis, conduct detailed fi-
8 nancial audits of closed undercover investigative op-
9 erations for which a written determination is made
10 under paragraph (2); and

11 “(ii) submit to the Secretary of Homeland Se-
12 curity a written report of the results of each audit
13 conducted under clause (i).

14 “(B) On the date on which the budget of the Presi-
15 dent is submitted under section 1105(a) of title 31 for
16 each year, the Secretary of Homeland Security shall sub-
17 mit to the Committee on Appropriations of the Senate and
18 the Committee on Appropriations of the House of Rep-
19 resentatives a report summarizing the audits conducted
20 under subparagraph (A)(i) relating to the previous fiscal
21 year.”.

22 **SEC. 9. FALSE CLAIMS SETTLEMENTS.**

23 (a) **REPORTS BY ATTORNEY GENERAL.**—Not later
24 than November 1 of each year, the Attorney General shall
25 submit to the Committee on the Judiciary of the Senate

1 and the Committee on the Judiciary of the House of Rep-
2 resentatives a report that describes each settlement or
3 compromise of any claim, suit, or other action entered into
4 with the Department of Justice that—

5 (1) relates to an alleged violation of section
6 1031 of title 18, United States Code, or section
7 3729 of title 31, United States Code (including all
8 settlements of alternative remedies); and

9 (2) results from a claim for damages of more
10 than \$100,000.

11 (b) CONTENTS OF REPORTS.—The description of
12 each settlement or compromise required to be included in
13 an annual report under subsection (a) shall include—

14 (1) the total amount of the settlement or com-
15 promise and the portions of the settlement attrib-
16 utable to violations of various statutory authorities;

17 (2) the amount of actual damages, or if the
18 amount of actual damages is not available a good
19 faith estimate of the damages, that have been sus-
20 tained and the minimum and maximum potential
21 civil penalties that may be incurred as a consequence
22 of the conduct of the defendant that is the subject
23 of the settlement or compromise;

24 (3) the basis for any estimate of damages sus-
25 tained and the potential civil penalties incurred;

1 (4) the amount of the settlement that rep-
2 resents damages and the multiplier or percentage of
3 the actual damages used in determining the amount
4 to be paid under the settlement or compromise;

5 (5) the amount of the settlement that rep-
6 resents civil penalties and the percentage of the
7 maximum potential civil penalty to be paid under the
8 settlement or compromise;

9 (6) the amount of the settlement that rep-
10 resents criminal fines and a statement of the basis
11 for the fines;

12 (7) a description of the period during which the
13 matter to which the settlement or compromise re-
14 lates was pending, including—

15 (A) the date on which the complaint was
16 originally filed;

17 (B) a description of the period the matter
18 remained under seal;

19 (C) the date on which the Department of
20 Justice determined whether to intervene in the
21 case; and

22 (D) the date on which the settlement or
23 compromise was finalized;

24 (8) whether a defendant or any division, sub-
25 sidiary, affiliate, or related entity of a defendant had

1 previously entered into a settlement or compromise
2 relating to section 1031 of title 18, United States
3 Code, or section 3730(b) of title 31, United States
4 Code, and, if so, the date of and amount to be paid
5 under each such settlement or compromise;

6 (9) whether a defendant or any division, sub-
7 sidiary, affiliate, or related entity of a defendant—

8 (A) entered into a corporate integrity
9 agreement relating to the settlement or com-
10 promise;

11 (B) entered into a deferred prosecution
12 agreement or nonprosecution agreement relat-
13 ing to the settlement or compromise; or

14 (C)(i) previously entered into—

15 (I) a corporate integrity agreement re-
16 lating to a settlement or compromise relat-
17 ing to a different violation of section
18 3730(b) of title 31, United States Code; or

19 (II) a deferred prosecution agreement
20 or nonprosecution agreement relating to a
21 settlement or compromise relating to a dif-
22 ferent violation of section 1031 of title 18,
23 United States Code; and

24 (ii) if the defendant had entered an agree-
25 ment described in clause (i), whether the agree-

1 ment applied to the conduct that is the subject
2 of the settlement or compromise described in
3 the report or similar conduct;

4 (10) for a settlement involving Medicaid, the
5 amounts paid to the Federal Government and to
6 each State participating in the settlement or com-
7 promise;

8 (11) whether civil investigative demands were
9 issued in process of investigating the matter to
10 which the settlement or compromise relates;

11 (12) for a qui tam action—

12 (A) the percentage of the settlement
13 amount awarded to the relator; and

14 (B) whether the relator requested a fair-
15 ness hearing relating to the percentage received
16 by the relator or the total amount of the settle-
17 ment;

18 (13) the extent to which officers of the agency
19 that was the victim of the loss resolved by the settle-
20 ment or compromise participated in the settlement
21 negotiations; and

22 (14) the extent to which a relator or counsel for
23 a relators participated in the settlement negotia-
24 tions.

1 **SEC. 10. AGGRAVATED IDENTITY THEFT AND FRAUD.**

2 (a) IN GENERAL.—Section 1028A of title 18, United
3 States Code, is amended in the section heading by adding
4 **“and fraud”** at the end.

5 (b) TECHNICAL AND CONFORMING AMENDMENT.—
6 The table of sections for chapter 47 of title 18, United
7 States Code, is amended by striking the item relating to
8 section 1028A and inserting the following:

“1028A. Aggravated identity theft and fraud.”.

9 **SEC. 11. FRAUD AND RELATED ACTIVITY IN CONNECTION**
10 **WITH IDENTIFICATION DOCUMENTS, AU-**
11 **THENTICATION FEATURES, AND INFORMA-**
12 **TION.**

13 (a) IN GENERAL.—Section 1028(a)(7) of title 18,
14 United States Code, is amended by inserting “(including
15 an organization)” after “person”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for chapter 47 of title 18, United
18 States Code, is amended by striking the item relating to
19 section 1028 and inserting the following:

“1028. Fraud and related activity in connection with identification documents,
authentication features, and information.”.

